

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MIGUEL DELOA,

Defendant.

Case No. 2:13-cr-00347-LDG (CWH)  
Case No. 2:14-cv-00378-LDG

**ORDER**

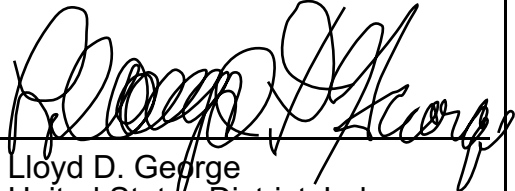
The defendant, Miguel Deloa, has filed a motion pursuant to 28 U.S.C. §2255 to vacate, set aside, or correct sentence by a person in federal custody (#23). A review of the record indicates that the defendant filed this motion three days after he was sentenced. In his motion, the defendant complains, *inter alia*, that his counsel was ineffective for failing to file an appeal. The record indicates, however, that a timely notice of appeal was filed after the defendant filed the instant motion. The record further indicates that defendant's counsel at sentencing was permitted to withdraw, and that he has been appointed new counsel for purposes of his direct appeal. Given that an appeal has been filed, and that the defendant's judgment of conviction has not become final, the Court will dismiss the motion without prejudice as prematurely filed.

Therefore, for good cause shown,

1 THE COURT **ORDERS** that Defendant's Motion Pursuant to 28 U.S.C. §2255 to  
2 Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (#23) is  
3 DISMISSED, without prejudice, as prematurely filed.

4 THE COURT FURTHER **ORDERS** that the Clerk of the Court shall serve a copy of  
5 this Order on the Defendant.

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7 DATED this 8 day of April, 2014.

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10 Lloyd D. George  
11 United States District Judge  
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